



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

Christina L. Waggett
Assistant Commissioner
for Consumer Protection

Michael Martin, DVM
State Veterinarian

March 30, 2022

Best Friends Pet Care, Inc.
Attn: Jenna Joseph
120 S. Central Avenue
Suite 350
Clayton, MO 63105

NOTICE of WARNING and NOTICE of VIOLATION

Re: Violations of Title 02 N.C. Administrative Code ("NCAC") Chapter 52J, Sections .0201(a); .0202(a) and (d); .0203(a); .0204(a); and .0207(d).

AWS-WL-2022-3

Facility: Best Friends Pet Care - Charlotte
License No. 10476

Dear Ms. Joseph:

On January 5, 2022, the Animal Welfare Section ("AWS") of the Veterinary Division of the N.C. Department of Agriculture and Consumer Services ("NCDA&CS") issued a Notice of Civil Penalty for violation of Title 02 N.C. Administrative Code (NCAC) Chapter 52J Sections .0102(1); .0202(d); .0204(a); .0206; .0207(a) and (b)(1) and (6); and .0208 and Notice of Warning for violation of 02 NCAC 52J .0102(3); .0103; and .0202(e) to Best Friends Pet Care, Inc. for the Best Friends Pet Care Charlotte boarding kennel ("the kennel"), AWS Boarding Kennel License No. 10476.

On January 18, 2022, AWS conducted a facility compliance inspection ("FCI") of the kennel. Due to the number, severity and/or repetitive nature of the violations of the N.C. Animal Welfare Act ("AWA") and its associated regulations, this FCI was noted as "Disapproved."

During the January 18, 2022 FCI, the following was noted:

- 1) in the kitchen area on the floor under the dishwasher and sink there appeared to be sewage present in violation of 02 NCAC 52J .0201(e). This violation was previously cited during the December 9, 2021 FCI;
- 2) kennels A1 through A4 were inadequately illuminated in violation of 02 NCAC 52J .0202(c);
- 3) multiple kennels had rusting metal edges where the floor meet the wall in violation of 02 NCAC 52J .0204(a). This violation was previously cited during the December 9, 2021 FCI and due to the risk of injury to the animals, the AWS Inspector directed the kennel staff not to house animals in those affected kennels until the violations were corrected. However, during the January 18, 2022 FCI dogs were noted to be housed within these unsafe kennels; and

- 4) the kennel hired a cleaning service to clean the kennel after the December 9, 2021 FCI, but the kennel staff relayed that the cleaning service had not returned to clean the facility in weeks. In the interim, no additional staff had been hired by the kennel to clean the facility therefore, the kennel does not have a sufficient number of employees in violation of 02 NCAC 52J .0208.

On March 7, 2022, AWS conducted a facility compliance inspection ("FCI") of the kennel. Due to the number, severity and/or repetitive nature of the violations of the N.C. Animal Welfare Act ("AWA") and its associated regulations, this FCI was noted as "Disapproved."

During the March 7, 2022 FCI, the following was noted:

- 1) in the kitchen area on the floor under the dishwasher and sink there appeared to be sewage, mold, and spilt dog food present in violation of 02 NCAC 52J .0201(e). This violation was previously cited during the December 9, 2021 and January 18, 2022 FCIs;
- 2) kennels BL-1 through BL16-16 had rusting metal edges where the floor meet the wall in violation of 02 NCAC 52J .0204(a). This violation was previously cited during the December 9, 2021 and January 18, 2022 FCIs and due to the risk of injury to the animals, the AWS Inspector directed the kennel staff not to house animals in those affected kennels until the violations were corrected;
- 3) a strong odor of urine was present in the cat room and discarded food debris was present on the floor indicating that this area is not being properly cleaned and sanitized in violation of 02 NCAC 52J .0207(b)(1); and
- 4) no additional staff has been hired to properly clean the kennel and care for the animals in violation of 02 NCAC 52J .0208. This violation was previously cited during the January 18, 2022 FCI.

The January 5, 2022 Notice of Civil Penalty and Notice of Warning and the FCIs referenced herein were made available to the kennel owners and can be found on the AWS website at: <http://www.ncagr.gov/vet/aws/>.


This Warning Letter serves as written notice indicating in which respects the kennel has violated the N.C. Animal Welfare Act ("AWA") and the rules issued pursuant thereto. The facility owner is directed to immediately comply with the AWA and its associated rules.

The kennel is hereby noticed that a boarding kennel license may not be renewed if there is not an "Approved" rating for at least one FCI in the fiscal year preceding the renewal application submission. To date, there has not been an "Approved" rating for this kennel for the 2021-2022 fiscal year. Therefore, should the kennel fail to correct these violations and fail to fully comply with the AWA and its associated rules, and thereby achieve an Approved rating on a FCI before June 30, 2022, the kennel's boarding kennel license renewal application may be denied.

Continued or future violation of these statutes or regulations will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's license pursuant to N.C. General Statute § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N.C. General Statute § 19A-40.

Your immediate attention to this matter is appreciated.

Sincerely,

A handwritten signature in dark ink, reading "Patricia Norris, DVM, MS". The signature is fluid and cursive, with the first name "Patricia" being more prominent.

Patricia Norris, DVM, MS
Director of Animal Welfare Section
Veterinary Division

cc: Michael Martin, DVM, State Veterinarian
Jonathan Lanier, General Counsel, NCDA&CS
Christina L. Waggett, Assistant Commissioner, NCDA&CS
Christopher R. McLennan, Assistant Attorney General

Appendix

REFERENCED STATUTES AND REGULATIONS

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation.

The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)

02 NCAC 52J .0201 GENERAL

(e) Provisions shall be made for the daily removal and disposal of animal and food waste, bedding and debris from the housing facility in accordance with local ordinances, to assure facility will be maintained in a clean and sanitary manner.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005.

02 NCAC 52J .0202 INDOOR FACILITIES

(c) Indoor housing facilities for dogs and cats shall have adequate illumination to permit routine inspections, maintenance, cleaning and housekeeping of the facility and observation of the animals. Illumination shall provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the animal facilities.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005.

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(a) Primary enclosures shall be constructed so as to prevent contamination from waste and wastewater from animals in other enclosures. All surfaces with which an animal comes in contact shall be impervious to moisture. For primary enclosures placed into service on or after January 1, 2005, no wood shall be within the animal's reach. For primary enclosures in use in a licensed or registered facility prior to January 1, 2005, any damaged wood must be replaced in a manner that does not permit contact with wood by the animal.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0207 SANITATION

(a) Waste shall be removed from primary enclosures and exercise areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats must be properly cleaned a minimum of two times per day. The animal must be able to walk or lie down without coming in contact with any waste or debris. When a hosing or flushing method is used for cleaning an enclosure, dogs or cats contained therein shall be removed during the cleaning process, and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.

(b) Sanitation shall be as follows:

- (1) Prior to the introduction of dogs or cats into empty primary enclosures previously occupied, enclosures and accessories shall be sanitized in the manner provided in Subparagraph (b)(3) of this Rule.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0208 EMPLOYEES

A sufficient number of employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this Rule. Such practices shall be under the supervision of an animal caretaker who has a background in animal husbandry or care.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984.